



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

Acquisition Bulletin (AB)  
No. 12-01 revision 1  
April 12, 2013

MEMORANDUM FOR BUREAU CHIEF PROCUREMENT OFFICERS

FROM:

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Office of the Procurement Executive

*Cathy C. Higginbotham* 4/12/2013

SUBJECT:

Class Deviation, Federal Acquisition Regulation (FAR) 52.209-5,  
Certifications Regarding Responsibility Matters

**Purpose:** This revision 1 to Acquisition Bulletin (AB) 12-01 implements Section 1105 of the full-year continuing resolution for fiscal year 2013 which provides that the requirements, authorities, conditions, limitations, and other provisions of the fiscal year 2012 appropriations act remain in effect. Thus, Treasury contracting officers are prohibited from using fiscal year 2013 appropriated funds to enter into a contract with an entity that has an unpaid federal tax liability or federal felony conviction, unless the suspension and debarment official has considered suspending or debarring the corporation and determines that further action to protect the interests of the government is not required.

**Effective Date:** Upon issuance.

**Expiration Date:** When canceled or superseded.

**Background:** Division C of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74) contains the following provisions:

SEC. 630. None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation with respect to which any unpaid Federal tax liability has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

SEC. 631. None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that was convicted or had an officer or agent of such corporation acting on behalf of the corporation convicted of a

felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation, or such officer or agent and made a determination that this further action is not necessary to protect the interests of the Government.

The Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113-06), Division F, provides that the requirements, authorities, conditions, limitations, and other provisions of the Consolidated Appropriations Act, 2012 2012 appropriations act remain in effect.

**Required Bureau Action:**

1. Contracting Officers shall insert the following text into all solicitations that will use funds made available by Division C of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), or Division F of the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113-06), including solicitations for acquisition of commercial items under FAR part 12:

**Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under Federal Law (FEB 2012)**

- (1) The offeror does ☐ does not ☐ have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability
  - (2) The offeror, its officers or agents acting on its behalf have ☐ have not ☐ been convicted of a felony criminal violation under any Federal law within the preceding 24 months
2. No Treasury employee shall use funds provided under the Consolidated Appropriations Act to award a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any offeror or applicant that provides an affirmative response to the representation in paragraph 1 above.
3. Contracting officers and other Treasury employees that receive information indicating the existence of a felony criminal violation under a federal law within the preceding 24 months or an unpaid federal tax liability shall refer the matter to the suspension and debarment official pursuant to DTAP 1009.4. No award shall be made or agreement entered into unless the suspension and debarment official makes a determination in writing that further action is not necessary to protect the interests of the Government.

**Additional Information:**

Questions about this AB may be directed to Fernando Tonolet at [fernando.tonolet@treasury.gov](mailto:fernando.tonolet@treasury.gov) , telephone (202) 622-6416.